

Testimony of
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Mr. Chairman, members of the committee, good afternoon. My name is James Bailey Brislin and I am a first-year law student at Western New England College School of Law. I come before your committee today to testify in support of Sunday liquor sales.

Much of the discussion surrounding Sunday liquor sales proceeds from a public policy perspective. However, there is another perspective that we must consider: the legal perspective.

Specifically, there has been significant jurisprudence on the topic of Sunday closings. It is apparent that Connecticut's law proscribing the Sunday closing of liquor stores is riddled with so many loopholes that it cannot withstand judicial scrutiny.

Perhaps the seminal U.S. Supreme Court case regarding Sunday closings was *McGowan v. Maryland*, 366 U.S. 420, (1961). In upholding Maryland's Sunday closing laws, the U.S. Supreme Court ruled that it was a legitimate state purpose to provide a common day of rest. However, the Maryland law in question allowed only a handful of products, such as gasoline, tobacco, newspapers, milk, bread, fruits, and medicine

When the Connecticut Supreme Court reviewed our Sunday closing statute in 1979, in the case of *Caldor's Inc. v. Bedding Barn, Inc.* 177 Conn. 304 (1979), it found it to be insufficient. Specifically, the Court held that the statute at issue in the instant case violated the equal protection and due process clauses of the U.S. Constitution because it was arbitrary and discriminatory. Specifically, it allowed some merchants to sell some items but prohibited other merchants from selling them on Sunday. Additionally, it permitted manufacturers to operate on Sundays.

In its opinion, the Court held that, "In our complex modern society, it is difficult for legislatures to achieve consensus about rest and recreation without becoming enmeshed in distinctions and discriminations that unfairly impose penal sanctions on legitimate commercial enterprises."

These words should be a warning to the current legislature. For is it not discriminatory to proscribe the sale of beer and wine at package stores on Sunday but to permit it at breweries and wineries?

I also commend to the members of the committee the case *Fair Cadillac-Oldsmobile Isuzu Partnership v. Bailey*, 229 Conn. 312 (1994). In that case, the Supreme Court reviewed the automotive closing statute in light of the criteria set forth in *Caldor's* and found it wanting. In concluding that the statute had no rational purpose, the court observed that, "all commercial enterprises other than motor vehicle dealerships are permitted to open for business on Sunday. Indeed, it appears that since *Caldor's* the legislature has completely abandoned the difficult task of providing a common day of rest for the people of Connecticut."

In light of that reality, the court held that in the absence of a statutory scheme providing a common day of rest for the people of Connecticut, no legitimate reason can be discerned for providing a common day of rest for one narrow class of employees.

As can be seen, our state's law proscribing the sale of liquor on Sundays is unlikely to withstand judicial scrutiny because it is unconstitutional. I hope that the members of this committee will take into consideration the solemn oath that they swore to uphold the state and federal Constitutions and accordingly accept the recommendations to strike Sunday liquor store closings from the General Statutes.